

REMARKS

Applicant thanks the Examiner for the very thorough consideration given the present application. Claims 1 through 37 are currently pending in the application.

The Office has entered a restriction requirement, stating that the present application includes claims directed to three patentably distinct inventions: Group I, as defined by Claims 1 through 21; Group II, as defined by Claims 22 and 23; and Group III, as defined by Claims 24 through 37.

Applicant provisionally elects to prosecute the claims of Group III, with traverse. Notwithstanding the election, the Examiner is respectfully requested to reconsider and withdraw the restriction requirement.

Applicant notes that the Office has mis-characterized Group I, stating that it is drawn to a power planer subcombination having the details of a carriage elevation mechanism and a power take-off. This is not correct as Claim 1 does not include a power take-off element (rather, a power take-off element is first introduced in dependent Claim 8). In this regard, Claim 1 includes guide posts with a threaded adjustment portion and an elevation mechanism with threaded structures that are threadably engaged to the threaded adjustment portion of the associated guide posts.

Similarly, Claim 22 of Group II includes a carriage elevation mechanism with a plurality of guide posts and an elevation mechanism with threaded structures, which are threadably engaged to the threaded adjustment portion of an associated guide post,

and means for transmitting rotary power to the threaded structures that includes a belt, pulleys, a pair of axles and gears.

Claim 24 of Group III likewise includes a carriage elevation mechanism which has a plurality of guide posts and a plurality of nut assemblies that are each threadably engaged to a threaded adjustment portion of an associated guide post, and a locking mechanism that frictionally engages the nut assemblies to the threaded adjustment portions.

In light of the above remarks and the similarities between Groups I and II, it appears that Group I should be described as being drawn to a power planer having a carriage elevation mechanism, classified in class 144, subclass 114.1 (i.e., the same class and subclass as that for Group II).

Applicant next notes that the Office appears to have mis-used the “combination” and “subcombination” labels to describe Groups I, II and III. In this regard, Section 806.05(a) of the MPEP provides “[a] combination is an organization of which a subcombination or element is a part.” Section 806.05(d) of the MPEP, which was cited by the Office in the above-referenced Restriction Requirement, provides that two or more claimed subcombinations, disclosed as usable together in a single combination, and which can be shown to be separately usable, are usually distinct from each other. Consequently, the “single combination” mentioned by the Office would appear to be the combination of Claims 1, 22 and 24. In other words, the “single combination” would include (3) bases, (3) carriages, (3) carriage elevation mechanisms and (1) locking mechanism. Applicant submits that the subject matter of Claims 1, 22 and 24 were not

disclosed as being combine-able into the "single combination" and as such, there is no basis for the application of Section 806.05(d) of the MPEP. Accordingly, the Examiner is respectfully requested to reconsider and withdraw the Restriction Requirement.


Lastly, Applicant notes that the claims are so closely related that maintaining them in the same Application would not cause undue hardship for the Examiner. In this regard, Section 803 of the Manual of Patent Examining Procedures states:

If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions. (emphasis added)

Since the Examiner does not argue that examination of Groups I, II and III would be a "serious burden", and as each of Groups I, II and III appears to be properly classified in the same class and subclass, Applicant submits that there would be none. Accordingly, the Examiner is respectfully requested to reconsider and withdraw the Restriction Requirement.

If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned attorney at (248) 641-1600. Prompt and favorable consideration of this amendment is respectfully requested.

Respectfully submitted,



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